IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

LA.App..No. 874 of 2006()

LAR.75/1996 of ADDL.SUB COURT,KOLLAM
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APPELLANT: RESPONDENT

STATE OF KERALA.

BY GOVERNMENT PLEADER SRI.K.V.MANOJ KUMAR

RESPONDENTS: ADDL.CLAIMANTS
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1. SUDHARMA, W/O.YATHEENDRAN,
AGED 48 YEARS, THYPOOYAM, KALLUMTHAZHAM,
KOLLAM.

2. ABHILASH, D/O.YATHEENDRAN,
AGED 22 YEARS, THYPOOYAM, KALLUMTHAZHAM,
KOLLAM.

3. ASWATHY, D/O.YATHEENDRAN,
THYPOOYAM, KALLUMTHAZHAM, KOLLAM.

BY ADVS. SRI.V.V.RAJA
SRI.M.T.SURESHKUMAR

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION ON 04/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID,JJ.

L.A.A. NO. 874 OF 2006

Dated this the 4th day of December, 2007

JUDGMENT

Kurian Joseph, J.

This appeal is filed against the judgment in L.A.R. No.75 of 1996 on the file of the Additional Sub Court, Kollam. The acquisition was for National Highway Bye Pass. The extent of land involved is 7.10 Ares.

2. The claimants placed reliance on Ext.A1 judgment in L.A.R. No.64 of 1996. The value fixed in L.A.R. No.64 of 1996 was Rs.24,700/- per Are. That value has become final since there is no appeal against that judgment. The learned Government Pleader submits that the property in Ext.A1 is situated in Mangadu Village whereas the property in the present case is in Kilikillur Village. According to the reference court, there is no evidence to show that the property covered by Ext.A1 and the acquired property have the same advantages. Therefore, the reference court rightly found that no reliance can be placed on Ext.A1. It is further submitted that in case Ext.A1 cannot be relied on, the reference court ought not to have fixed land value at Rs.18,100/- We are afraid that this contention

cannot be fully appreciated. Learned counsel for the claimants submits that the said property belonged to the brother of the claimants and that the property lies adjacent to the acquired property. Despite the finding that the property in Ext.A1 cannot be compared and treated as similar to the acquired property in view of the locational advantages, the reference court fixed land value at Rs.18,100/- per Are.

3. It is seen that in L.A.A. No.426 of 2007, the reference court referred to the land value fixed in L.A.R. No.268 of 1993 acquired for the very same purpose and covered by the very same notification. In that case, the Land Acquisition Officer fixed land value at Rs.8,083/- per Are which was enhanced by the reference court to Rs.19,760/- per Are and that has become final. In view of the lesser importance of the property in L.A.R. No.93 of 1997, the Land Acquisition Officer fixed land value at Rs.7,290/- which was enhanced to Rs.16,350/- by the reference court and that has been sustained by this Court in L.A.A. No.426 of 2007. Since, the acquired property has better advantages in the matter of access to panchayat road and nearness to Kallumthazham junction and since the Land Acquisition Officer himself had fixed land value at Rs.8,083/- per Are and this Court has sustained the enhancement and refixation at Rs.19,760/- per Are, we do not think it necessary to interfere with the

fixation of land value at Rs.18,100/- per Are in view of the locational advantages of the property.

The appeal is accordingly dismissed.

(KURIAN JOSEPH, JUDGE)

(HARUN-UL-RASHID, JUDGE)

sp/

KURIAN JOSEPH &
HAURN-UL-RASHID, JJ.

L.A.A.NO

JUDGMENT

4TH DECEMBER, 2007